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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,430

01/06/2005

Serge Haumont

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12/05/2008

SQUIRE, SANDERS & DEMPSEY L.L.P.

8000 TOWERS CRESCENT DRIVE

14TH FLOOR

VIENNA, VA 22182-6212

EXAMINER

FOUD, HICHAM B

ART UNIT

PAPER NUMBER

2419

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,430	Applicant(s) HAUMONT, SERGE	
	Examiner HICHAM B. FOUD	Art Unit 2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The amendment filed on 08-01-2008 has been entered and considered.

Claims 20-62 are pending in this application.

Claims 1-19 have been canceled.

Claims 39-62 are newly added.

Claims 20-62 remain rejected as discussed below.

Claim Objections

2. Claim 55 objected to because of the following informalities:

Claim 55 recites "A method" which should be -An apparatus- since it depends from apparatus claim 53.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 20-62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20, 36, 53 and 62, recites that the application level message comprises an indication of conditions to deliver the signaling message which is vague and indefinite because the application level message comprises indication of conditions to deliver the extract of the application level message which is defined by "application signaling" (see figure 3 step 4) and not the signaling

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message which is defined by "PDP context" (see figure 3 steps 1 and 3).

Therefore, it is not known the metes and the bounds of the claimed invention.

In Claims 23 and 55, the term "the application receiver process" has no antecedent basis.

Claims 28, 43, 50 and 59 recites that PDP context is embedded in SIP, RSVP or PPP signaling which is vague and indefinite because Figure 3 shows that sip is embedded in PDP context and not the opposite (see specification page 7). Therefore, it is not known the metes and the bounds of the claimed invention.

Claims 39 and 46 are vague and indefinite because it is known the difference between "send the encapsulated application level message" and "forwarding the extracted content" which is extracted from the encapsulated application level message. Also, it is not known the use of "conditions" in the limitation of "forwarding the extracted content..." Therefore, it is not known the metes and the bounds of the claimed invention.

Claim 59 depends on itself.

4. Claims 20, 36, 53 and 62 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: receiving the encapsulated application level message by the first network (SGSN) that copies the application level message from one message to another without being interpreted and transmitting said copied encapsulated application level message to a second network node (GGSN) (see specification page 7 lines 11-33 and Figure 3 step 3).

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Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: receiving an encapsulated application level message in a first network (SGSN); copying said application level message from one message to another without being interpreted and transmitting said copied encapsulated application level message to a second network node (GGSN) (see specification page 7 lines 11-33 and Figure 3 steps 1 and 3). Similar problems occur in claim 46.

Claims 21-35, 37, 38, 40-46, 47-52 and 54-61 are rejected because of their dependency on the rejected claim.

The claims are rejected as best understood

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 20-22, 24, 26, 36, 37, 53, 54, and 58 are rejected under 35 U.S.C. 102(a) as being anticipated by Greis et al (WO 01/86974).

For claim 20, Greis discloses a method comprising: receiving an application level message (see page 11 lines 1-2; QoS is application specific) from a sender application process (see Figure 1 element 11; data bearer service manager) to an access network signaling process (see Figure 1 element 11; data bearer service manager and see page 10 line 32 to page 11 line 5; this may also be accomplished by the data bearer service manager); encapsulating said application level message in a signaling message of an access network (see page 11 lines 1-3 and lines 19-24; QoS is embedded in the message); and

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transmitting said application level message to a network node by transmitting said signaling message (see Figure 3 step 1; PDP context request), wherein said application level message comprises an indication of conditions to deliver the signaling message (see page 12 lines 7-9; QoS).

For claims 21 and 54, Greis discloses a method wherein said sender process is performed in a mobile terminal coupled to said access network (see Figure 3).

For claim 22 and 37 Greis discloses a method wherein said sender process is performed in an application server configured to provide a corresponding application (see page 15 lines 5-7, the mobile can be a laptop computer).

For claims 24 and 56, Greis discloses a method wherein said indication comprises an indication of whether to deliver said signaling message when the QoS changes (see page 12 lines 7-9; QoS).

For claims 26 and 58, Greis discloses a method wherein said encapsulated application level message is included in a PDP context (see page 11 lines 19-24).

Claims 36 and 53 are rejected for the same reasons as claim 20.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 23, 25, 27-28, 38, 55, 57 and 59 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Greis in view of Dorenbosch et al (US 2003/0217174).

For claims 23 and 55, Greis discloses all the subject matter with the exception of wherein said indication comprises an address being one of a logical name, an IP address and a port number. However, Dorenbosch discloses a method wherein the signaling message included the mobile station's IP address (see Figure 2 step 205; MS_IP_add). Thus, it would have been obvious to the one skill in the art at the time of the invention to include an indication of the IP address for the purpose of identifying the station and communication.

For claim 25 and 57, Greis discloses all the subject matter with the exception of wherein the method of implementing VOIP. However, Dorenbosch discloses a method that uses the SIP for establishing VOIP method (see [0011] lines 4-9). Thus, it would have been obvious to the one skill in the art at the time of the invention to add a SIP for the purpose of implementing VOIP that is cheaper than the landline connection.

For claim 27 and 38, Greis discloses all the subject matter with the exception of wherein the application server is one of the group comprising a proxy call state control function, a push proxy server and an IMS. However, an official notice is taken in that a server could be either proxy call state control function or push proxy server which functions are well known and expected. Thus, it would have been obvious to the one skill in the art at the time of the

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invention to use a proxy call state control function for example instead of the server for the purpose of controlling and maintaining the calls.

For claim 28 and 59, Greis further discloses that RSVP may be embedded in PDP context (see page 4 lines 22-28). Greis discloses all the subject matter with the exception of wherein PDP is embedded in anyone of SIP, RSVP and PPP signaling. However, an official notice is taken in that a process can be reversed. Thus, it would have been obvious to the one skill in the art at the time of the invention to reverse the process of embedding the RSVP in PDP context signaling by embedding PDP context signaling in the RSVP signaling for the purpose of exchanging the properties of each other protocol.

Allowable Subject Matter

7. Claims 29-35 and 60-61 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. Claims 39-52 and 62 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Argument

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

10. In response to applicant argument in regard of allowable subject matter in page 17 of the Remarks, the examiner respectfully disagrees with the applicant because all the claims were rejected under 112, 2nd paragraph because of their

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indefiniteness, ambiguity and vagueness that is why the examiner could not compare the claims to any prior art at that time. Also, there is no mentioning in the previous action that any claims were allowable.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other

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passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

When responding to this office action, applicants are advised to clearly point out the patentable novelty which they think the claims present in view of the state of the art disclosed by the references cited or the objections made.

Applicants must also show how the amendments avoid such references or objections. See 37C.F.R 1.111(c). In addition, applicants are advised to provide the examiner with the line numbers and pages numbers in the application and/or references cited to assist examiner in locating the appropriate paragraphs.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hicham B. Foud whose telephone number is 571-270-1463. The examiner can normally be reached on Monday - Friday 10-6 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

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free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hicham B Foud/
Examiner, Art Unit 2419
11/27/2008

/Wing F. Chan/
Supervisory Patent Examiner, Art Unit 2419